

AMENDED IN ASSEMBLY JULY 13, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 522

Introduced by Senator Mendoza

February 26, 2015

An act to amend ~~Section 4616.4 of the Labor Code, relating to workers' compensation.~~ *Sections 12505, 12555, 12558, 12561, 12562, 12563, 12564, 12565, 12566, 12570, 12580, 12581, 12585, 12586, 12587, 12590, 12604, 12605, 12637, 12643, 12645, 12648, 12649, 12670, 12673, 12686, 12688, 12706, 12722, 12724, 12725, and 12728 of, to add Chapter 6.5 (commencing with Section 12655) to Part 2 of Division 11 of, and to repeal Sections 12556, 12557, 12723, and 12726 of, the Health and Safety Code, relating to fireworks.*

LEGISLATIVE COUNSEL'S DIGEST

SB 522, as amended, Mendoza. ~~Workers' compensation: advertisements.~~ *State Fireworks Law: fireworks stewardship program.*

Existing law requires various entities, including the State Fire Marshal, to seize certain prohibited fireworks. Existing law, until January 1, 2016, requires the State Fire Marshal to manage seized fireworks and contract with a federally permitted hazardous waste hauler for the hauling and disposal of seized illegal fireworks, and to store fireworks determined not to be hazardous, as provided. Existing law requires the Office of the State Fire Marshal to consult with public safety agencies and other stakeholders and develop a model ordinance that permits local jurisdictions to adopt streamlined enforcement and administrative fine procedures related to possession of 25 pounds or less of dangerous fireworks.

This bill would repeal the provisions relating to a model ordinance governing enforcement and administrative fine procedures.

Existing law authorizes the State Fire Marshal to issue and renew licenses for the manufacture, import, export, sale, and use of all fireworks and pyrotechnic devices in this state, in accordance with prescribed procedures.

The bill would, commencing January 1, 2017, prohibit the State Fire Marshal from issuing or renewing those licenses unless the applicant for a license or renewal of a license has submitted a fireworks stewardship plan, as described, that has been approved by the State Fire Marshal. The bill would establish the Fireworks Stewardship Program, which would, among other things, prescribe procedures for entities that are authorized to seize fireworks to provide for the transfer, storage, transportation, and repurposing of seized fireworks, in accordance with specified requirements, including that the fireworks are managed and transported in accordance with all applicable state and federal hazardous waste laws and regulations.

The bill would require a fireworks stewardship organization, as defined, or a manufacturer of fireworks, as described, before it may take possession of seized fireworks from the State Fire Marshal, to, not later than January 30, 2016, submit an interim fireworks plan for approval to the State Fire Marshal, containing specified components and information, and would prescribe procedures for the approval or disapproval of the plan. The bill would, no later than July 1, 2016, require a manufacturer, either individually, or through a fireworks stewardship organization acting on its behalf, to submit a fireworks stewardship plan to the State Fire Marshal that meets specified requirements. The bill would require a manufacturer or a fireworks stewardship organization, no later than July 1, 2016, and annually thereafter, to prepare and submit to the State Fire Marshal a proposed program budget for the following calendar year, with information relating the anticipated costs of the program.

The bill would require a fireworks stewardship organization to recommend to the State Fire Marshal an amount for a fireworks management charge to be added to the price of safe and sane fireworks at the point of sale, as defined, to fund the program. The bill would prescribe procedures for the conduct of audits and the reimbursement of various entities for program costs, and would impose recordkeeping and reporting requirements on a fireworks stewardship organization covered under the bill. The bill would authorize the State Fire Marshal

to impose various administrative penalties for violations of program requirements, and would require that all revenues collected from those administrative penalties be deposited in the State Fire Marshal Fireworks Enforcement and Disposal Fund, as provided.

Existing law provides that criminal fines for violations of the laws regulating fireworks are distributed by the courts, with 65% allocated to a fund that supports State Fire Marshal programs relating to fireworks and explosives enforcement and education, and 35% allocated to reimbursement of the local public safety agencies for enforcement expenses.

This bill would provide, without specifying further allocation, that all of these moneys are to be deposited with the county treasurer of the county in which the court is situated.

~~Existing law establishes a worker’s compensation system, administered by the Administrative Director of the Division of Workers’ Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law authorizes an insurer, employer, or entity that provides physician network services to establish or modify a medical provider network for the provision of medical treatment to injured employees, and requires the administrative director to contract with individual physicians or an independent medical review organization to perform independent medical reviews.~~

~~This bill would clarify that those independent medical reviews are medical provider network independent medical reviews. The bill would make conforming changes.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12505 of the Health and Safety Code is
- 2 amended to read:
- 3 12505. “Dangerous fireworks” includes all of the following:
- 4 (a) Any fireworks which contain any of the following:
- 5 (1) Arsenic sulfide, arsenates, or arsenites.
- 6 (2) Boron.
- 7 (3) Chlorates, except:
- 8 (A) In colored smoke mixture in which an equal or greater
- 9 amount of sodium bicarbonate is included.
- 10 (B) In caps and party poppers.

- 1 (C) In those small items (such as ground spinners) wherein the
2 total powder content does not exceed 4 grams of which not greater
3 than 15 percent (or 600 milligrams) is potassium, sodium, or
4 barium chlorate.
- 5 (4) Gallates or Gallic acid.
- 6 (5) Magnesium (magnesium-aluminum alloys, called
7 magnalium, are permitted).
- 8 (6) Mercury salts.
- 9 (7) Phosphorous (red or white except that red phosphorus is
10 permissible in caps and party poppers).
- 11 (8) Picrates or picric acid.
- 12 (9) Thiocyanates.
- 13 (10) Titanium, except in particle size greater than 100-mesh.
- 14 (11) Zirconium.
- 15 (b) Firecrackers.
- 16 (c) Skyrockets and rockets, including all devices which employ
17 any combustible or explosive material and which rise in the air
18 during discharge.
- 19 (d) Roman candles, including all devices which discharge balls
20 of fire into the air.
- 21 (e) Chasers, including all devices which dart or travel about
22 the surface of the ground during discharge.
- 23 (f) Sparklers more than 10 inches in length or one-fourth of
24 one inch in diameter.
- 25 (g) All fireworks designed and intended by the manufacturer
26 to create the element of surprise upon the user. These items include,
27 but are not limited to, auto-foolers, cigarette loads, exploding golf
28 balls, and trick matches.
- 29 (h) Fireworks known as devil-on-the-walk, or any other
30 firework which explodes through means of friction, unless
31 otherwise classified by the State Fire Marshal pursuant to this part.
- 32 (i) Torpedoes of all kinds which explode on impact.
- 33 (j) Fireworks kits.
- 34 (k) Such other fireworks examined and tested by the State Fire
35 Marshal and determined by ~~him~~, *him or her*, with the advice of
36 the State Board of Fire Services, to possess characteristics of design
37 or construction which make such fireworks unsafe for use by any
38 person not specially qualified or trained in the use of fireworks.
- 39 *SEC. 2. Section 12555 of the Health and Safety Code is*
40 *amended to read:*

1 12555. The State Fire Marshal or his *or her* salaried deputies
2 may make an examination of the books and records of any licensee
3 or permittee relative to fireworks, and may visit and inspect any
4 building or other premises subject to the control of, or used by,
5 the licensee or permittee for any purpose related to fireworks of
6 any licensee or permittee at any time he *or she* may deem necessary
7 for the purpose of enforcing the provisions of this part.

8 *SEC. 3. Section 12556 of the Health and Safety Code is*
9 *repealed.*

10 ~~12556. In addition to the obligations described in Section~~
11 ~~13110.5, on or before July 1, 2008, the State Fire Marshal shall~~
12 ~~identify and evaluate methods to capture more detailed data relating~~
13 ~~to fires, damages, and injuries caused by both dangerous fireworks~~
14 ~~and safe and sane fireworks. These evaluation methods shall~~
15 ~~include a cost analysis related to capturing and reporting the data~~
16 ~~and shall meet or exceed the specificity, detail, and reliability of~~
17 ~~the data captured under the former California Fire Incident~~
18 ~~Reporting System (CFIRS). The State Fire Marshal shall furnish~~
19 ~~a copy of these evaluation methods to any interested person upon~~
20 ~~request.~~

21 *SEC. 4. Section 12557 of the Health and Safety Code is*
22 *repealed.*

23 ~~12557. (a) The Office of the State Fire Marshal shall consult~~
24 ~~with public safety agencies and other stakeholders as deemed~~
25 ~~necessary by the State Fire Marshal and develop a model ordinance~~
26 ~~that permits local jurisdictions to adopt a streamlined enforcement~~
27 ~~and administrative fine procedures related to the possession of 25~~
28 ~~pounds or less of dangerous fireworks. These procedures shall be~~
29 ~~limited to civil fines and as authorized pursuant to Section 53069.4~~
30 ~~of the Government Code, and provide that the fines collected~~
31 ~~pursuant to this section shall not be subject to Section 12706. The~~
32 ~~model ordinance shall include provisions for reimbursing the Office~~
33 ~~of the State Fire Marshal for the costs associated with the disposal~~
34 ~~of seized fireworks and collecting these disposal costs as part of~~
35 ~~an administrative fine as described in subdivision (c).~~

36 ~~(b) An ordinance of a local jurisdiction in effect on or after~~
37 ~~January 1, 2008, that is related to dangerous fireworks and is not~~
38 ~~the model ordinance described in subdivision (a) shall, as soon as~~
39 ~~practicable, comply with all of the following:~~

1 ~~(1) The ordinance shall be amended or adopted to include~~
2 ~~provisions for cost reimbursement to the Office of the State Fire~~
3 ~~Marshal and the collection of disposal costs as part of an~~
4 ~~administrative fine as described in subdivision (c).~~

5 ~~(2) The ordinance shall be amended or adopted to provide that~~
6 ~~the ordinance shall be limited to a person who possesses or the~~
7 ~~seizure of 25 pounds or less of dangerous fireworks.~~

8 ~~(3) The ordinance shall be amended or adopted to provide that~~
9 ~~the fines collected pursuant to the ordinance shall not be subject~~
10 ~~to Section 12706.~~

11 ~~(c) The State Fire Marshal shall, in consultation with local~~
12 ~~jurisdictions, develop regulations to specify a procedure on how~~
13 ~~to cover the cost to the Office of the State Fire Marshal for the~~
14 ~~transportation and disposal of dangerous fireworks that are seized~~
15 ~~by local jurisdictions. The regulations shall include, but are not~~
16 ~~limited to, all of the following:~~

17 ~~(1) A cost recovery procedure to collect, as part of an~~
18 ~~administrative fine, the actual cost for transportation and disposal~~
19 ~~of dangerous fireworks from any person who violates a local~~
20 ~~ordinance related to dangerous fireworks.~~

21 ~~(2) The method by which the actual cost for transportation and~~
22 ~~disposal by the Office of the State Fire Marshal will be calculated.~~

23 ~~(3) The method, manner, and procedure the local jurisdiction~~
24 ~~is required to follow to forward the amounts collected pursuant to~~
25 ~~paragraph (1) to the State Fire Marshal.~~

26 *SEC. 5. Section 12558 of the Health and Safety Code is*
27 *amended to read:*

28 12558. The licensee or permittee shall permit the chief of the
29 issuing authority, or his *or her* authorized representatives, as
30 qualified in Section 12721, to enter and inspect any building or
31 other premises subject to the control of or used by the licensee or
32 permittee for any purpose related to fireworks at any time for the
33 purpose of enforcing the provisions of this part.

34 *SEC. 6. Section 12561 of the Health and Safety Code is*
35 *amended to read:*

36 12561. All fireworks examined by the State Fire Marshal and
37 determined by him *or her* to come within the definition of
38 “dangerous fireworks” in Section 12505 shall be classified as
39 dangerous fireworks.

1 *SEC. 7. Section 12562 of the Health and Safety Code is*
2 *amended to read:*

3 12562. All fireworks examined by the State Fire Marshal and
4 determined by him *or her* to come within the definition of “safe
5 and sane fireworks” in Section 12529 shall be classified as safe
6 and sane fireworks.

7 *SEC. 8. Section 12563 of the Health and Safety Code is*
8 *amended to read:*

9 12563. All fireworks examined by the State Fire Marshal and
10 determined by him *or her* to come within the definition of
11 “agricultural and wildlife fireworks” in Section 12503 shall be
12 classified as agricultural and wildlife fireworks.

13 *SEC. 9. Section 12564 of the Health and Safety Code is*
14 *amended to read:*

15 12564. All fireworks examined by the State Fire Marshal and
16 determined by him *or her* to come within the definition of “exempt
17 fireworks” in Section 12508 shall be classified as exempt fireworks.

18 *SEC. 10. Section 12565 of the Health and Safety Code is*
19 *amended to read:*

20 12565. All fireworks or toy propellant devices containing
21 pyrotechnic compositions examined by the State Fire Marshal and
22 found by him *or her* to come within the definition of “model
23 rocket” or “model rocket engine” in Section 12519 or 12520,
24 respectively, shall be classified as model rocket engines.

25 *SEC. 11. Section 12566 of the Health and Safety Code is*
26 *amended to read:*

27 12566. All pyrotechnic devices examined by the State Fire
28 Marshal and found by him *or her* to come within the definition of
29 “emergency signaling devices” in Section 12506 shall be classified
30 by the State Fire Marshal as emergency signaling devices.

31 *SEC. 12. Section 12570 of the Health and Safety Code is*
32 *amended to read:*

33 12570. The State Fire Marshal may issue any license described
34 in this part, subject to the regulations ~~which he~~ *that he or she* may
35 adopt not inconsistent with the provisions of this part.

36 *SEC. 13. Section 12580 of the Health and Safety Code is*
37 *amended to read:*

38 12580. The State Fire Marshal may issue and renew licenses
39 for the manufacture, import, export, sale, and use of all fireworks
40 and pyrotechnic devices in this state. *Commencing on January 1,*

1 2017, the State Fire Marshal shall not issue wholesale licenses
 2 that include the wholesale of safe and sane fireworks if the
 3 applicant for a license does not have a fireworks stewardship plan
 4 that has been approved by the State Fire Marshal pursuant to
 5 Section 12659.

6 SEC. 14. Section 12581 of the Health and Safety Code is
 7 amended to read:

8 12581. Any person who desires to manufacture, import, export,
 9 ~~sell~~ ~~sell~~, or use ~~fireworks~~, fireworks shall first make written
 10 application for a license to the State Fire Marshal on forms
 11 provided by ~~him~~. ~~Such~~ *him or her*. The application shall be
 12 accompanied by the annual license fee as prescribed in this chapter.

13 SEC. 15. Section 12585 of the Health and Safety Code is
 14 amended to read:

15 12585. Any applicant may withdraw his *or her* application for
 16 a license or renewal of a license and the State Fire Marshal may
 17 allow the withdrawal when he *or she* has determined that it is in
 18 the best interest of public safety or the administration of this part.

19 SEC. 16. Section 12586 of the Health and Safety Code is
 20 amended to read:

21 12586. The suspension, expiration, or forfeiture by operation
 22 of law of a license issued by the State Fire Marshal, or its
 23 suspension, forfeiture, or cancellation by order of the State Fire
 24 Marshal or by a court of law, or its surrender to the State Fire
 25 Marshal shall not, during any period in which it may be renewed,
 26 restored, reissued, or reinstated, deprive the State Fire Marshal of
 27 his *or her* authority to institute or continue disciplinary action
 28 against the licensee upon any ground provided by law, or to enter
 29 an order suspending or revoking a license or otherwise taking
 30 disciplinary action against the licensee on any such ground.

31 SEC. 17. Section 12587 of the Health and Safety Code is
 32 amended to read:

33 12587. A written report by the State Fire Marshal, any of his
 34 *or her* deputies, or salaried assistants, or by the chief of any city
 35 or county fire department or fire protection district or ~~their~~ *his or*
 36 *her* authorized representatives, disclosing that the applicant for a
 37 license or for renewal of a license does not meet, or the premises
 38 for which the license is required do not meet, the qualifications or
 39 conditions for ~~such~~ *the* license as required by this part or
 40 regulations adopted pursuant to this part, may constitute grounds

1 for denial of any application for the license or renewal of the
2 license.

3 *SEC. 18. Section 12590 of the Health and Safety Code is*
4 *amended to read:*

5 12590. The State Fire Marshal may deny or revoke any license
6 issued pursuant to this part if the State Fire Marshal finds any of
7 the following conditions has occurred:

8 (a) The licensee has failed to pay the annual renewal license
9 fee provided in this chapter.

10 (b) The licensee or license applicant has violated any provisions
11 of this part or any regulations adopted by the State Fire Marshal
12 pursuant to this part.

13 (c) The licensee or license applicant has created or caused a
14 fire nuisance.

15 (d) The licensee has failed to keep full, complete, and accurate
16 records or failed to file any required reports.

17 (e) Any fact or condition exists which, if it had existed at the
18 time of the original application for the license reasonably would
19 have warranted the State Fire Marshal in refusing originally to
20 issue the license.

21 (f) The permit issued under Section 12640 has been rescinded
22 or revoked by the issuing authority.

23 (g) Any licensee or license applicant has refused to make
24 available to the State Fire Marshal full, complete, and accurate
25 records.

26 (h) *The licensee does not participate in a fireworks stewardship*
27 *plan that has been approved by the State Fire Marshal pursuant*
28 *to Section 12659.*

29 *SEC. 19. Section 12604 of the Health and Safety Code is*
30 *amended to read:*

31 12604. Following the revocation or voluntary surrender of a
32 *his or her* license, or failure to renew *his or her* license, any person
33 in lawful possession of lawfully acquired fireworks for which a
34 license is required may sell or otherwise dispose of such fireworks
35 only under supervision of the State Fire Marshal and in such a
36 manner as ~~he~~ *the State Fire Marshal* shall provide by regulations
37 and solely to persons who are authorized to buy, possess, sell, or
38 use ~~such those~~ fireworks. ~~Such~~ *That* disposal shall be accomplished
39 not later than 90 days ~~from~~ *after* the legal revocation, voluntary
40 surrender, or ~~day that the license expires.~~ *expiration of the license.*

1 Any person possessing fireworks pursuant to this section shall
 2 report the disposition of ~~such~~ *the* fireworks to the local authority
 3 who issued the storage permit within the time period specified by
 4 this section.

5 *SEC. 20. Section 12605 of the Health and Safety Code is*
 6 *amended to read:*

7 12605. ~~Any~~ A person found guilty of violating any of the
 8 provisions of this part is not eligible to apply for a new license,
 9 apply for a renewal of a license, or take an examination for any
 10 license for a period of one year from the date of any conviction.
 11 The State Fire Marshal may waive the provisions of this section
 12 when he *or she* finds the granting of a license will not endanger
 13 public safety.

14 *SEC. 21. Section 12637 of the Health and Safety Code is*
 15 *amended to read:*

16 12637. All fireworks or pyrotechnic devices intended for sale
 17 in this state, which are products of nonlicensed manufacturers,
 18 shall be examined and classified by the State Fire Marshal upon
 19 written application on forms provided by ~~him~~. ~~Such~~ *him or her*.
 20 *The* application shall be accompanied by a fee as follows:

21 (a) Ten dollars (\$10) for each label of an item of identical size
 22 and design of a given lot or batch, provided that the lot or batch
 23 is identifiable by a code, serial number, shipment lot, case cargo
 24 number, etc.

25 ~~A~~

26 (b) A separate application and fee shall be submitted for each
 27 lot or batch.

28 ~~The~~

29 (c) *The* State Fire Marshal seal and the wholesalers or importers
 30 registration number shall not be imprinted on the label until the
 31 lot or batch has been examined and classified.

32 *SEC. 22. Section 12643 of the Health and Safety Code is*
 33 *amended to read:*

34 12643. Any licensee desiring to do any act specified in Section
 35 12640 shall first make written application for a permit to the chief
 36 of the fire department or the chief fire prevention officer of the
 37 city or county, or to ~~such other~~ *another* issuing authority ~~which~~
 38 *that* may be designated by the governing body of the city or county.
 39 In the event there is no such officer or person appointed within the
 40 area, application shall be made to the State Fire Marshal or his *or*

1 *her* deputy. Applications for permits shall be made in writing at
2 least 10 days prior to the proposed act.

3 *SEC. 23. Section 12645 of the Health and Safety Code is*
4 *amended to read:*

5 12645. The officer to whom the application for a permit is
6 made shall undertake an investigation and submit a report of his
7 *or her* findings and his *or her* recommendation concerning the
8 issuance of the permit, together with his *or her* reasons therefor,
9 to the governing body of the city or county. The applicant for a
10 permit to conduct a public display shall file a certificate evidencing
11 the possession of a valid public display license with the officer
12 making the investigation.

13 *SEC. 24. Section 12648 of the Health and Safety Code is*
14 *amended to read:*

15 12648. The officer to whom the application for a permit for a
16 public display of fireworks is made shall make an investigation to
17 determine whether such a display as proposed will be of ~~such a~~
18 character or so located that it may be hazardous to property or
19 dangerous to any person. He *or she* shall, in the exercise of
20 reasonable discretion, recommend granting or denying the permit,
21 subject to ~~such~~ those conditions as he *or she* may prescribe.

22 *SEC. 25. Section 12649 of the Health and Safety Code is*
23 *amended to read:*

24 12649. The applicant for a permit for any public display of
25 fireworks shall, at the time of application, submit his *or her* license
26 for inspection and furnish proof that he *or she* carries compensation
27 insurance for his *or her* employees as provided by the laws of this
28 state.

29 *SEC. 26. Chapter 6.5 (commencing with Section 12655) is*
30 *added to Part 2 of Division 11 of the Health and Safety Code, to*
31 *read:*

32

33 *CHAPTER 6.5. FIREWORKS STEWARDSHIP PROGRAM*

34

35 12655. *This chapter shall be known as the Fireworks*
36 *Stewardship Program.*

37 12656. *For purposes of this chapter, the following definitions*
38 *apply:*

39 (a) *“Dangerous fireworks” has the same meaning as Section*
40 *12505.*

1 (b) “Fireworks” has the same meaning as Section 12511.

2 (c) “Fireworks management charge” or “charge” means the
3 charge imposed on the sale of fireworks and collected at the retail
4 point of sale, the revenues from which are used to fund the
5 management and disposal of out-of-state fireworks.

6 (d) “Fireworks stewardship plan” or “fireworks plan” means
7 a plan submitted to the State Fire Marshal pursuant to Section
8 12659.

9 (e) “Fireworks stewardship organization” means a nonprofit
10 organization authorized by one or more manufacturers to act on
11 behalf of manufacturers to provide plans to the State Fire Marshal
12 pursuant to Section 12658 or 12659.

13 (f) “Interim fireworks plan” or “interim plan” means an interim
14 plan submitted to the State Fire Marshal for approval pursuant
15 to Section 12658.

16 (g) “Manufacturer” means one of the following persons:

17 (1) A person or entity that manufactures, and that sells, offers
18 for sale, or distributes, safe and sane fireworks in the state under
19 the person’s or entity’s own name or brand.

20 (2) If there is no person or entity that sells, offers for sale, or
21 distributes safe and sane fireworks in the state under the person’s
22 or entity’s own name or brand, the manufacturer of the fireworks
23 is the owner or licensee of a trademark or brand under which the
24 fireworks are sold or distributed in the state, whether or not the
25 trademark is registered.

26 (3) If there is no person who is a manufacturer pursuant to
27 paragraph (1) or (2), the manufacturer of the fireworks is the
28 person who imports the fireworks into the state for sale or
29 distribution.

30 (h) “Retailer” has the same meaning as Health and Safety Code
31 Section 12528.

32 (i) “Safe and sane fireworks” has the same meaning as Section
33 12529.

34 (j) “Seizing entity” means any entity authorized to seize
35 fireworks pursuant to Section 12721.

36 12657. (a) The seizing entity shall separate any seized
37 fireworks that are no longer in their original United States
38 Department of Transportation certified shipping containers, as
39 well as any fireworks that are identified as dangerous and are not
40 legal for sale in California or any other state, and ensure that this

1 material is stored in accordance with all applicable state and
2 federal hazardous waste laws and regulations. The seizing entity
3 may transfer any seized fireworks to the fireworks stewardship
4 organization or a manufacturer for purposes of resale or disposal.
5 If a seizing entity transfers any seized fireworks to a fireworks
6 stewardship organization or manufacturer, it shall keep records
7 detailing the number of pounds of fireworks it transferred. A
8 stewardship organization shall accept full responsibility for the
9 management and handling of, and assume liability for any damage
10 caused as a result of, any fireworks that are transferred pursuant
11 to this chapter, and shall hold the State of California and the
12 seizing entity harmless for any damage done by those fireworks.

13 (b) Notwithstanding any other law, within 30 days of notification
14 by the seizing entity, the stewardship organization or manufacturer
15 shall arrange for pickup or transportation of all seized fireworks
16 that are held by the seizing entity in accordance with one of the
17 following procedures:

18 (1) Seized fireworks that are no longer in their original United
19 States Department of Transportation certified shipping containers,
20 and those that are identified as dangerous and are not legal for
21 sale in California or any other state, shall be transported by a
22 registered hazardous waste transporter, in accordance with all
23 applicable state and federal hazardous waste laws and regulations,
24 and all applicable United States Department of Transportation
25 requirements, to a facility that is authorized by the state where the
26 facility is located to receive fireworks that are determined to be
27 hazardous waste.

28 (2) Seized fireworks that are still in their original United States
29 Department of Transportation certified shipping containers shall
30 be transported to a location that is described in an approved plan
31 submitted pursuant to Section 12658 or 12659, as applicable.

32 (c) Any seized fireworks that are still in their original United
33 States Department of Transportation certified shipping containers
34 may be managed as follows:

35 (1) To the extent allowed by any applicable state and federal
36 laws, fireworks that may not legally be sold in California may be
37 repurposed, and retained by a fireworks stewardship organization
38 within the state for a period not exceeding 90 days. Before the
39 expiration of the 90-day period, the stewardship organization shall
40 ship those fireworks to a site operated by the stewardship

1 organization or another entity in another state that is authorized
2 to accept the shipment.

3 (2) To the extent allowed by any applicable state and federal
4 laws, any fireworks that may legally be sold in California may be
5 repurposed and retained by a fireworks stewardship organization
6 and offered for sale within the state during a legally authorized
7 sales period.

8 12658. (a) Before it may legally take possession of seized
9 fireworks from the State Fire Marshal, a fireworks stewardship
10 organization or manufacturer shall, not later than January 30,
11 2016, submit an interim fireworks plan for approval by the State
12 Fire Marshal, which shall contain, at a minimum, all of the
13 following:

14 (1) A plan for the collection, sorting, disposal, or other
15 disposition of fireworks seized over the July 4, 2016 sales period,
16 which is in compliance with all appropriate state and federal
17 hazardous waste laws.

18 (2) A financial plan for the fireworks stewardship organization
19 or manufacturer to cover any costs associated with paragraph (1)
20 and any reasonable costs incurred by the State Fire Marshal to
21 administer this section, including any required retailer fees.

22 (b) No later than February 28, 2016, the State Fire Marshal
23 shall notify the fireworks stewardship organization or manufacturer
24 of the approval or disapproval of the interim plan submitted
25 pursuant to subdivision (a). If the State Fire Marshal disapproves
26 of the interim plan, the State Fire Marshal may require any revision
27 to the plan he or she deems necessary to protect the public safety
28 or the fiscal solvency of the fireworks disposal program as a
29 precondition for approval of the interim plan. A fireworks
30 stewardship organization or manufacturer shall submit a revised
31 interim plan to the State Fire Marshal no later than ____ days
32 after the date of receipt of notification of a disapproved plan. If
33 the fireworks stewardship organization or manufacturer fails to
34 submit a revised interim plan to the State Fire Marshal that
35 includes the revisions required by the State Fire Marshal, or the
36 State Fire Marshal fails to approve the plan within ____ days of
37 receipt of the revised plan, the revised plan shall be deemed
38 disapproved.

39 (c) The State Fire Marshal or a seizing entity may transfer any
40 fireworks held from prior fiscal years to a fireworks stewardship

1 organization or manufacturer during the period from January 1,
2 2016, to June 30, 2016. The transfer of those fireworks may only
3 take place if the proposed transfer is provided for in an approved
4 and implemented interim plan submitted pursuant to subdivision
5 (a).

6 (d) The Department of Forestry and Fire Protection may
7 establish positions during the 2015–16 fiscal year that are
8 necessary to implement and administer this chapter. Any
9 subsequent funding for those positions shall occur as part of the
10 regular budget process for the 2016–17 fiscal year, and each fiscal
11 year thereafter, consistent with the requirements of the annual
12 Budget Act.

13 (e) No later than June 1, 2016, a fireworks stewardship
14 organization or manufacturer shall be required to reimburse the
15 Department of Forestry and Fire Protection for any actual costs
16 incurred in funding the positions established pursuant to
17 subdivision (d).

18 (f) Before approving the interim fireworks plan submitted
19 pursuant to subdivision (a), the State Fire Marshal shall consult
20 with Department of Toxic Substances Control to ensure that the
21 activities described in the interim plan will be conducted so as to
22 comply with all state and federal hazardous waste laws and
23 regulations.

24 12659. (a) No later than July 1, 2016, a manufacturer shall,
25 individually, or through a fireworks stewardship organization
26 acting on its behalf, submit for approval a fireworks stewardship
27 plan to the State Fire Marshal that meets the requirements of this
28 section and includes all of the following:

29 (1) A process for collaborating with the State Fire Marshal with
30 regard to the establishment of program goals and methods of
31 measuring program outcomes.

32 (2) A description of education and outreach efforts to nonprofit
33 organizations, charities, and others who sell safe and sane
34 fireworks regarding fire protection and prevention, the responsible
35 use of safe and sane fireworks, and the hazards of illegal fireworks.

36 (3) A consultation process with affected stakeholders regarding
37 the plan.

38 (4) The names of manufacturers and brands of fireworks covered
39 under the plan.

1 (5) Procedures to ensure the continued implementation of the
2 fireworks plan if the manufacturer or the stewardship organization
3 no longer exists due to bankruptcy, dissolution, or similar events.

4 (6) A process for ensuring payment to hazardous waste facilities
5 for the reasonable costs of collecting, storing, and processing
6 fireworks in the implementation of the fireworks plan pursuant to
7 this chapter.

8 (7) A methodology and audit plan for ensuring that any
9 fireworks that are legal under federal law, and are shipped outside
10 of the state, do not reenter California.

11 (8) Provisions requiring an annual report to the State Fire
12 Marshal documenting the prior year's seizures, shipments, sales,
13 and disposals.

14 (9) A plan developed with state and local law enforcement to
15 reduce the volume of illegal fireworks entering California.

16 (10) Measures to be implemented to ensure that hazardous
17 waste is managed in accordance with state and federal hazardous
18 waste laws and regulations.

19 (b) Before approving the fireworks stewardship plan prepared
20 pursuant to subdivision (a), the State Fire Marshal shall consult
21 with the Department of Toxic Substances Control to ensure that
22 the activities described in the fireworks stewardship plan will be
23 conducted in compliance with all state and federal hazardous
24 waste laws and regulations.

25 (c) Commencing January 1, 2017, the State Fire Marshal shall
26 not issue licenses pursuant to Sections 12572 and 12573 to a
27 manufacturer that is not in compliance with this chapter.

28 12660. No later than July 1, 2016, and annually thereafter, a
29 manufacturer or a fireworks stewardship organization shall
30 prepare and submit to the State Fire Marshal a proposed fireworks
31 program budget for the following calendar year that includes all
32 of the following:

33 (a) Anticipated revenues from the sale of recuperated fireworks
34 and costs of implementing the program, including costs of related
35 programs, projects, contracts, and administrative expenses, and
36 including the costs of complying with state and federal hazardous
37 waste laws and regulations.

38 (b) Recommended funding levels sufficient to cover the plan's
39 budgeted costs and the operating expenses of the program over a
40 multiyear period in a prudent and responsible manner.

1 (c) *The amount of the fireworks disposal fee for the subsequent*
2 *July 4th sales period and an itemization of the estimated proceeds*
3 *of the fee.*

4 (d) *No later than October 1, 2016, and annually thereafter, the*
5 *State Fire Marshal shall approve or disapprove a manufacturer's*
6 *or fireworks stewardship organization's final program budget. If*
7 *the State Fire Marshal fails to act or does not disapprove a*
8 *manufacturer's or fireworks stewardship organization's final*
9 *program budget, the budget shall be deemed approved on ____*
10 *of the applicable year.*

11 (e) (1) *If the State Fire Marshal disapproves the budget*
12 *submitted by a fireworks stewardship organization or*
13 *manufacturer, the fireworks stewardship organization or*
14 *manufacturer shall submit a revised budget addressing the State*
15 *Fire Marshal's written reasons for its decision to disapprove within*
16 *30 days of the date the budget is disapproved.*

17 (2) *The State Fire Marshal, within 30 days from the date the*
18 *manufacturer or a fireworks stewardship organization submits a*
19 *revised budget, shall approve or disapprove a final fireworks*
20 *program budget.*

21 12661. (a) *A stewardship organization shall recommend to*
22 *the State Fire Marshal the amount of a fireworks management*
23 *charge that should be added to the purchase price of safe and sane*
24 *fireworks at the point of sale.*

25 (b) (1) *The amount of the fireworks management charge shall*
26 *be sufficient to fund the revenue requirements set forth in the*
27 *approved budget.*

28 (2) *The stewardship organization shall set the fireworks*
29 *management charge as a flat rate based on the type and quantity*
30 *of the fireworks purchased and not as a percentage of the purchase*
31 *price.*

32 (c) *The fireworks management charge shall be included in the*
33 *annual program budget for approval by the State Fire Marshal*
34 *pursuant to Section 12660.*

35 (d) *Once the State Fire Marshal approves or conditionally*
36 *approves a budget pursuant to Section 12660, the State Fire*
37 *Marshal shall require that a fireworks retailer that sells safe and*
38 *sane fireworks to a consumer in the state add the fireworks*
39 *management charge to the purchase price of the fireworks sold,*

1 *and remit the proceeds of the charge to the fireworks stewardship*
2 *organization or manufacturer, as applicable.*

3 *(e) The stewardship organization or manufacturer shall*
4 *determine the rules and procedures that are necessary and proper*
5 *to implement the collection of the charge in a fair, efficient, and*
6 *lawful manner.*

7 *12662. (a) The fireworks stewardship organization or*
8 *manufacturer may conduct an audit of those parties that are*
9 *required to remit the fee to the manufacturer or stewardship*
10 *organization to verify that a fireworks management charge is paid*
11 *correctly and accurately, and to ensure that charges are paid and*
12 *collected pursuant to this chapter in the correct amount.*

13 *(b) An audit conducted pursuant to this section shall be carried*
14 *out in accordance with generally accepted auditing practices and*
15 *shall be limited in scope to confirming whether the fireworks*
16 *management charge has been properly collected on all sales of*
17 *safe and sane fireworks to consumers in the state.*

18 *(c) For purposes of conducting audits pursuant to this section,*
19 *a manufacturer or fireworks stewardship organization shall hire*
20 *an independent, third-party auditor.*

21 *(d) If a manufacturer or fireworks stewardship organization*
22 *conducts an audit pursuant to this section, the organization shall*
23 *provide a copy of the audit to the department.*

24 *12663. (a) The State Fire Marshal shall prepare a summary*
25 *of his or her costs for implementing and enforcing this chapter*
26 *through the end of the 2016–17 fiscal year, and for each fiscal*
27 *year thereafter. The estimated costs of implementation shall include*
28 *any costs incurred by the Department of Toxic Substances Control*
29 *to review an interim plan submitted pursuant to Section 12658, or*
30 *a fireworks plan submitted pursuant to Section 12659, for*
31 *compliance with state and federal hazardous waste laws and*
32 *regulations.*

33 *(b) No later than July 1, 2016, and once every three months*
34 *thereafter, and within the fiscal year ending June 30, the fireworks*
35 *stewardship organization shall reimburse the State Fire Marshal*
36 *for any costs incurred pursuant to subdivision (a).*

37 *(c) The State Fire Marshal shall deposit all moneys submitted*
38 *for reimbursement of its costs by a fireworks stewardship*
39 *organization or manufacturer pursuant to this section into the*
40 *State Fire Marshal Fireworks Enforcement and Disposal Fund,*

1 *created pursuant to Section 12728. Upon appropriation by the*
2 *Legislature, these moneys may be expended by the Department of*
3 *Forestry and Fire Prevention to administer and enforce this*
4 *chapter and reimburse any outstanding loans made from other*
5 *funds used to finance startup costs of the department's activities*
6 *pursuant to this chapter.*

7 *12664. (a) A fireworks stewardship organization shall keep*
8 *minutes, books, and records that clearly reflect the activities and*
9 *transactions of the fireworks stewardship organization conducted*
10 *pursuant to this chapter.*

11 *(b) The accounting books of a manufacturer or a fireworks*
12 *stewardship organization shall be audited at the manufacturer's*
13 *or the fireworks stewardship organization's expense by an*
14 *independent certified public accountant retained by the*
15 *manufacturer or fireworks stewardship organization at least once*
16 *each calendar year.*

17 *(c) The fireworks stewardship organization or manufacturer*
18 *shall arrange for the audit to be delivered to the State Fire*
19 *Marshal. The State Fire Marshal shall review the audit to evaluate*
20 *the fireworks stewardship organization's or manufacturer's*
21 *compliance with this chapter and consistency with the plan created*
22 *pursuant to this chapter. The State Fire Marshal shall notify a*
23 *manufacturer or fireworks stewardship organization of any*
24 *compliance issues or inconsistencies. The State Fire Marshal shall*
25 *not disclose any confidential proprietary information in the audit.*

26 *(d) The State Fire Marshal may conduct its own audit if it*
27 *determines that an audit is necessary to enforce the requirements*
28 *of this chapter and that the audit conducted pursuant to subdivision*
29 *(b) is not adequate for this purpose.*

30 *12665. (a) The State Fire Marshal may impose an*
31 *administrative civil penalty on any manufacturer or stewardship*
32 *organization that is in violation of this chapter. The amount of the*
33 *civil penalty shall not exceed five hundred dollars (\$500) per day,*
34 *but if the violation is intentional, knowing, or reckless, the State*
35 *Fire Marshal may impose a civil penalty of not more than five*
36 *thousand dollars (\$5,000) per day.*

37 *(b) The State Fire Marshal may impose an administrative civil*
38 *penalty on any retailer who is in violation of this chapter. The*
39 *amount of the civil penalty shall not exceed five hundred dollars*
40 *(\$500) per day, but if the violation is intentional, knowing, or*

1 *reckless, the State Fire Marshal may impose a civil penalty of not*
2 *more than five thousand dollars (\$5,000) per day.*

3 *(c) If more than one stewardship organization submits a plan*
4 *pursuant to this chapter, the State Fire Marshal shall determine*
5 *the manufacturer's or retailer's compliance with this chapter in*
6 *accordance with the plan to which the manufacturer or retailer is*
7 *subject.*

8 *(d) The State Fire Marshal may impose the administrative civil*
9 *penalties pursuant to this section in accordance with Chapter 5*
10 *(commencing with Section 11500) of Part 1 of Division 3 of Title*
11 *2 of the Government Code, except that subdivision (c) of Section*
12 *11505 of the Government Code shall not apply to the department.*

13 *(e) The State Fire Marshal shall not impose a penalty upon a*
14 *fireworks stewardship organization pursuant to this section for a*
15 *failure to comply with this chapter as a result of submitting false*
16 *or misleading information if the stewardship organization*
17 *demonstrates that it received false or misleading information from*
18 *a manufacturer that was the direct cause of its failure to comply*
19 *with this chapter.*

20 *(f) The State Fire Marshal shall deposit all penalties collected*
21 *pursuant to this section into the State Fire Marshal Fireworks*
22 *Enforcement and Disposal Fund.*

23 *12666. Section 12700 shall not apply to violations of this*
24 *chapter.*

25 *SEC. 27. Section 12670 of the Health and Safety Code is*
26 *amended to read:*

27 *12670. It is unlawful for any person to advertise that he or she*
28 *is in any business or venture involving fireworks or pyrotechnic*
29 *devices or shall to cause his or her name or business name style*
30 *to be included in any classified advertisement or directory under*
31 *a classification which that includes the word fireworks, unless he*
32 *or she is licensed pursuant to this part.*

33 *SEC. 28. Section 12673 of the Health and Safety Code is*
34 *amended to read:*

35 *12673. It is unlawful for any person to store any fireworks*
36 *without having in his or her possession a valid permit as required*
37 *by this part.*

38 *SEC. 29. Section 12686 of the Health and Safety Code is*
39 *amended to read:*

1 12686. It is unlawful for any person to use any special effects
2 fireworks unless he *or she* possesses a pyrotechnic operator license.

3 *SEC. 30. Section 12688 of the Health and Safety Code is*
4 *amended to read:*

5 12688. It is unlawful for any person to advertise to sell or
6 transfer any class of fireworks, including agricultural and wildlife
7 fireworks or model rocket engines, unless he *or she* possesses a
8 valid license or permit.

9 *SEC. 31. Section 12706 of the Health and Safety Code is*
10 *amended to read:*

11 12706. Notwithstanding Section 1463 of the Penal Code, all
12 fines and forfeitures imposed by or collected in any court of this
13 state, except for administrative fines described in Section 12557,
14 as a result of citations issued by a public safety agency, for any
15 violation of subdivision (b) of Section 12700 or of any regulation
16 adopted pursuant to subdivision (b) of Section 12700, shall be
17 deposited, as soon as practicable after the receipt of the fine or
18 forfeiture, with the county treasurer of the county in which the
19 court is situated. ~~Amounts deposited pursuant to this section shall~~
20 ~~be paid at least once a month as follows:~~

21 ~~(a) Sixty-five percent to the Treasurer, by warrant of the county~~
22 ~~auditor drawn upon the requisition of the clerk or judge of the~~
23 ~~court, for deposit in the State Fire Marshal Fireworks Enforcement~~
24 ~~and Disposal Fund, as described in Section 12728, on order of the~~
25 ~~Controller. At the time of the transmittal, the county auditor shall~~
26 ~~forward to the Controller, on the form or forms prescribed by the~~
27 ~~Controller, a record of the imposition, collection, and payments~~
28 ~~of the fines or forfeitures.~~

29 ~~(b) Thirty-five percent to the local public safety agency in the~~
30 ~~county in which the offense was committed to reimburse the local~~
31 ~~public safety agency for expenses, including, but not limited to,~~
32 ~~the costs for handling, processing, photographing, and storing~~
33 ~~seized dangerous fireworks.~~

34 *SEC. 32. Section 12722 of the Health and Safety Code is*
35 *amended to read:*

36 12722. The following fireworks may be seized pursuant to
37 Section 12721:

38 (a) Those fireworks which are sold, offered for sale, possessed,
39 stored, used, or transported within this state prior to having been
40 examined, classified, and registered by the State Fire Marshal,

1 except those specific items designated as samples pending
2 examination, classification, and registration by the State Fire
3 Marshal where the licensee provides documentary evidence that
4 ~~such~~ *the* action by the State Fire Marshal is pending.

5 (b) All imported fireworks possessed without benefit of the
6 filing of notices as required by this part.

7 (c) Safe and sane fireworks stored in violation of the conditions
8 required by the permit as provided in this part.

9 (d) Safe and sane fireworks sold or offered for sale at retail
10 ~~which~~ *that* do not bear the State Fire Marshal label of registration
11 and firing instructions.

12 (e) Safe and sane fireworks sold or offered for sale at retail
13 ~~which~~ *that* are in unsealed packages or containers—~~which~~ *that* do
14 not bear the State Fire Marshal label of registration and firing
15 instructions.

16 (f) Safe and sane fireworks sold or offered for sale at retail
17 before 12 noon on the 28th day of June or after 12 noon on the
18 sixth day of July of each year.

19 (g) Each safe and sane fireworks item sold or offered for sale
20 at retail—~~which~~ *that* does not have its fuse or other igniting device
21 protected by a cap approved by the State Fire Marshal, or groups
22 of fireworks with exposed fuses—~~which~~ *that* are not enclosed in
23 sealed packages—~~which~~ *that* bear the State Fire Marshal label of
24 registration. The State Fire Marshal shall approve—~~such caps as he~~
25 *those caps that he or she* determines provide reasonable protection
26 from unintentional ignition of the fireworks.

27 (h) Dangerous fireworks, including fireworks kits, used,
28 possessed, stored, manufactured, or transported by any person who
29 does not possess a valid permit authorizing any activity listed in
30 this part.

31 (i) Any fireworks stored or sold in any public garage or public
32 oil station, or on any premises where gasoline or any other class
33 1 flammable liquids are stored or dispensed.

34 (j) Any fireworks still possessed by a person who has just
35 thrown any ignited fireworks at any person or group of persons.

36 (k) Any model rocket engines or model rockets with engines
37 possessed by any person not holding a valid permit.

38 (l) Any emergency signaling device sold, offered for sale, or
39 used—~~which~~ *that* does not bear the State Fire Marshal label of
40 registration as required by this part.

1 (m) Any fireworks or pyrotechnic device offered for sale by
2 any person violating any provision of this part.

3 *SEC. 33. Section 12723 of the Health and Safety Code, as*
4 *added by Section 10 of Chapter 24 of the Statutes of 2015, is*
5 *repealed.*

6 ~~12723. (a) The authority seizing fireworks under the provisions~~
7 ~~of this chapter shall notify the State Fire Marshal not more than~~
8 ~~three days following the date of seizure and shall state the reason~~
9 ~~for the seizure and the quantity, type, and location of the fireworks.~~
10 ~~Fireworks, with the exception of dangerous fireworks, seized~~
11 ~~pursuant to Section 12721 shall be disposed of by the State Fire~~
12 ~~Marshal in the manner prescribed by the State Fire Marshal at any~~
13 ~~time subsequent to 60 days from the seizure or 10 days from the~~
14 ~~final termination of proceedings under the provisions of Section~~
15 ~~12593 or 12724, whichever is later. Dangerous fireworks shall be~~
16 ~~disposed of according to procedures in Sections 12724 and 12726.~~
17 ~~Fireworks seized by any authority as defined in this chapter, other~~
18 ~~than the State Fire Marshal or his or her salaried assistants, shall~~
19 ~~be held in trust for the State Fire Marshal by that authority.~~

20 (b) ~~This section shall become operative on January 1, 2016.~~

21 *SEC. 34. Section 12724 of the Health and Safety Code is*
22 *amended to read:*

23 12724. (a) Any person whose fireworks are seized under the
24 provisions of this chapter may, within 10 days after seizure, petition
25 ~~the State Fire Marshal~~ *entity seizing the fireworks* to return the
26 fireworks seized upon the ground that the fireworks were illegally
27 or erroneously seized. Any petition filed pursuant to this section
28 shall be considered by ~~the State Fire Marshal~~ *entity seizing the*
29 *fireworks* within 15 days after filing or after a hearing granted to
30 the petitioner, if requested. ~~The State Fire Marshal~~ *entity seizing*
31 *the fireworks* shall advise the petitioner of his or her decision in
32 writing. The determination of ~~the State Fire Marshal~~ *entity seizing*
33 *the fireworks* is final unless within 60 days after seizure an action
34 is commenced in a court of competent jurisdiction in the State of
35 California for the recovery of the fireworks seized pursuant to this
36 part, except as provided in subdivision (b).

37 (b) ~~The determination of the State Fire Marshal~~ *entity seizing*
38 *the fireworks* is final in the case of the seizure of dangerous
39 fireworks, unless within 20 days after the notice of the
40 determination is mailed to the petitioner an action is commenced

1 in a court of competent jurisdiction in the State of California for
2 the recovery of the fireworks seized pursuant to this part.

3 *SEC. 35. Section 12725 of the Health and Safety Code is*
4 *amended to read:*

5 12725. The State Fire Marshal, his *or her* salaried deputies, or
6 any chief or his *or her* authorized representatives as qualified in
7 this chapter may prevent, stop, or cause to be stopped, any public
8 display in progress, or any proposed public display, when the
9 location, discharge, or firing of such public display is determined
10 by him *or her* to be hazardous to property or dangerous to the
11 public.

12 *SEC. 36. Section 12726 of the Health and Safety Code, as*
13 *added by Section 12 of Chapter 24 of the Statutes of 2015, is*
14 *repealed.*

15 ~~12726. (a) The dangerous fireworks seized pursuant to this~~
16 ~~part shall be disposed of by the State Fire Marshal in the manner~~
17 ~~prescribed by the State Fire Marshal at any time after the final~~
18 ~~determination of proceedings under Section 12724, or upon final~~
19 ~~termination of proceedings under Section 12593, whichever is~~
20 ~~later. If no proceedings are commenced pursuant to Section 12724,~~
21 ~~the State Fire Marshal may dispose of the fireworks after all of the~~
22 ~~following requirements are satisfied:~~

23 ~~(1) A random sampling of the dangerous fireworks has been~~
24 ~~taken, as defined by regulations adopted by the State Fire Marshal~~
25 ~~pursuant to Section 12552.~~

26 ~~(2) The analysis of the random sampling has been completed.~~

27 ~~(3) Photographs have been taken of the dangerous fireworks to~~
28 ~~be destroyed.~~

29 ~~(4) The State Fire Marshal has given written approval for the~~
30 ~~destruction of the dangerous fireworks. This approval shall specify~~
31 ~~the total weight of the dangerous fireworks seized, the total weight~~
32 ~~of the dangerous fireworks to be destroyed, and the total weight~~
33 ~~of the dangerous fireworks not to be destroyed.~~

34 ~~(b) To carry out the purposes of this section, the State Fire~~
35 ~~Marshal shall acquire and use statewide mobile dangerous~~
36 ~~fireworks destruction units to collect and destroy seized dangerous~~
37 ~~fireworks from local and state agencies.~~

38 ~~(c) If dangerous fireworks are seized pursuant to a local~~
39 ~~ordinance that provides for administrative fines or penalties and~~
40 ~~these fines or penalties are collected, the local government entity~~

1 collecting the fines or penalties shall forward 65 percent of the
2 collected moneys to the Controller for deposit in the State Fire
3 Marshal Fireworks Enforcement and Disposal Fund, as described
4 in Section 12728.

5 (d) This section shall become operative on January 1, 2016.

6 *SEC. 37. Section 12728 of the Health and Safety Code is*
7 *amended to read:*

8 12728. (a) The State Fire Marshal Fireworks Enforcement and
9 Disposal Fund is hereby established in the State Treasury.

10 (b) All of the moneys collected pursuant to Section 12706 shall
11 be deposited in the fund and shall be available, upon appropriation
12 by the Legislature, to the State Fire Marshal for the exclusive use
13 in statewide programs for the enforcement, prosecution related to,
14 disposal, and management of seized dangerous fireworks, and for
15 the education of public safety agencies in the proper handling and
16 management of dangerous fireworks.

17 (b) All of the moneys deposited in the fund pursuant to Section
18 12663 shall be expended, upon appropriation by the Legislature,
19 only as provided in that section.

20 (c) All of the moneys collected pursuant to Section 12727 shall
21 be deposited in the fund and shall be available, upon appropriation
22 by the Legislature, to the State Fire Marshal for the exclusive use
23 in statewide programs for all of the following:

24 (1) To further assist in statewide programs for the enforcement,
25 prosecution related to, disposal, and management of seized
26 dangerous fireworks.

27 (2) The education of public safety agencies in the proper
28 handling and management of dangerous fireworks as well as safety
29 issues involving all fireworks and explosives.

30 (3) Assist the State Fire Marshal in identifying and evaluating
31 methods to capture more detailed data relating to fires, damages,
32 and injuries caused by both dangerous and safe and sane fireworks,
33 and to assist with funding the eventual development and
34 implementation of those methods.

35 (4) To further assist in public safety and education efforts within
36 the general public as well as public safety agencies on the proper
37 and responsible use of safe and sane fireworks.

38 ~~SECTION 1. Section 4616.4 of the Labor Code is amended to~~
39 ~~read:~~

1 ~~4616.4. (a) (1) The administrative director shall contract with~~
2 ~~individual physicians, as described in paragraph (2), or an~~
3 ~~independent medical review organization to perform medical~~
4 ~~provider network (MPN) independent medical reviews pursuant~~
5 ~~to this section.~~

6 ~~(2) Only physicians licensed pursuant to Chapter 5 (commencing~~
7 ~~with Section 2000) of the Business and Professions Code may be~~
8 ~~independent medical reviewers.~~

9 ~~(3) The administrative director shall ensure that the independent~~
10 ~~medical reviewers or those within the review organization shall~~
11 ~~do all of the following:~~

12 ~~(A) Be appropriately credentialed and privileged.~~

13 ~~(B) Ensure that the reviews provided by the medical~~
14 ~~professionals are timely, clear, and credible, and that reviews are~~
15 ~~monitored for quality on an ongoing basis.~~

16 ~~(C) Ensure that the method of selecting medical professionals~~
17 ~~for individual cases achieves a fair and impartial panel of medical~~
18 ~~professionals who are qualified to render recommendations~~
19 ~~regarding the clinical conditions consistent with the medical~~
20 ~~utilization schedule established pursuant to Section 5307.27, or~~
21 ~~the American College of Occupational and Environmental~~
22 ~~Medicine's Occupational Medicine Practice Guidelines.~~

23 ~~(D) Ensure that confidentiality of medical records and the review~~
24 ~~materials, consistent with the requirements of this section and~~
25 ~~applicable state and federal law.~~

26 ~~(E) Ensure the independence of the medical professionals~~
27 ~~retained to perform the reviews through conflict-of-interest policies~~
28 ~~and prohibitions, and ensure adequate screening for conflicts of~~
29 ~~interest.~~

30 ~~(4) Medical professionals selected by the administrative director~~
31 ~~or the independent medical review organizations to review medical~~
32 ~~treatment decisions shall be physicians, as specified in paragraph~~
33 ~~(2) of subdivision (a), who meet the following minimum~~
34 ~~requirements:~~

35 ~~(A) The medical professional shall be a clinician knowledgeable~~
36 ~~in the treatment of the employee's medical condition,~~
37 ~~knowledgeable about the proposed treatment, and familiar with~~
38 ~~guidelines and protocols in the area of treatment under review.~~

39 ~~(B) Notwithstanding any other provision of law, the medical~~
40 ~~professional shall hold a nonrestricted license in any state of the~~

1 United States, and for physicians, a current certification by a
2 recognized American medical specialty board in the area or areas
3 appropriate to the condition or treatment under review.

4 (C) The medical professional shall have no history of
5 disciplinary action or sanctions, including, but not limited to, loss
6 of staff privileges or participation restrictions taken or pending by
7 any hospital, government, or regulatory body.

8 (b) If, after the third physician's opinion, the treatment or
9 diagnostic service remains disputed, the injured employee may
10 request MPN independent medical review regarding the disputed
11 treatment or diagnostic service still in dispute after the third
12 physician's opinion in accordance with Section 4616.3. The
13 standard to be utilized for MPN independent medical review is
14 identical to that contained in the medical treatment utilization
15 schedule established in Section 5307.27, or the American College
16 of Occupational and Environmental Medicine's Occupational
17 Medicine Practice Guidelines, as appropriate.

18 (c) Applications for MPN independent medical review shall be
19 submitted to the administrative director on a one-page form
20 provided by the administrative director entitled "MPN Independent
21 Medical Review Application." The form shall contain a signed
22 release from the injured employee, or a person authorized pursuant
23 to law to act on behalf of the injured employee, authorizing the
24 release of medical and treatment information. The injured employee
25 may provide any relevant material or documentation with the
26 application. The administrative director or the independent medical
27 review organization shall assign the independent medical reviewer.

28 (d) Following receipt of the application for MPN independent
29 medical review, the employer or insurer shall provide the
30 independent medical reviewer, assigned pursuant to subdivision
31 (c), with all information that was considered in relation to the
32 disputed treatment or diagnostic service, including both of the
33 following:

34 (1) A copy of all correspondence from, and received by, any
35 treating physician who provided a treatment or diagnostic service
36 to the injured employee in connection with the injury.

37 (2) A complete and legible copy of all medical records and other
38 information used by the physicians in making a decision regarding
39 the disputed treatment or diagnostic service.

1 (e) Upon receipt of information and documents related to the
2 application for MPN independent medical review, the independent
3 medical reviewer shall conduct a physical examination of the
4 injured employee at the employee's discretion. The reviewer may
5 order any diagnostic tests necessary to make his or her
6 determination regarding medical treatment. Utilizing the medical
7 treatment utilization schedule established pursuant to Section
8 5307.27, or the American College of Occupational and
9 Environmental Medicine's Occupational Medicine Practice
10 Guidelines, as appropriate, and taking into account any reports
11 and information provided, the reviewer shall determine whether
12 the disputed health care service was consistent with Section
13 5307.27 or the American College of Occupational and
14 Environmental Medicine's Occupational Medicine Practice
15 Guidelines based on the specific medical needs of the injured
16 employee.

17 (f) The independent medical reviewer shall issue a report to the
18 administrative director, in writing, and in layperson's terms to the
19 maximum extent practicable, containing his or her analysis and
20 determination whether the disputed health care service was
21 consistent with the medical treatment utilization schedule
22 established pursuant to Section 5307.27, or the American College
23 of Occupational and Environmental Medicine's Occupational
24 Medicine Practice Guidelines, as appropriate, within 30 days of
25 the examination of the injured employee, or within less time as
26 prescribed by the administrative director. If the disputed health
27 care service has not been provided and the independent medical
28 reviewer certifies in writing that an imminent and serious threat
29 to the health of the injured employee may exist, including, but not
30 limited to, serious pain, the potential loss of life, limb, or major
31 bodily function, or the immediate and serious deterioration of the
32 injured employee, the report shall be expedited and rendered within
33 three days of the examination by the independent medical reviewer.
34 Subject to the approval of the administrative director, the deadlines
35 for analyses and determinations involving both regular and
36 expedited reviews may be extended by the administrative director
37 for up to three days in extraordinary circumstances or for good
38 cause.

39 (g) The independent medical reviewer's analysis shall cite the
40 injured employee's medical condition, the relevant documents in

1 the record, and the relevant findings associated with the documents
2 or any other information submitted to the reviewer in order to
3 support the determination.

4 (h) The administrative director shall immediately adopt the
5 determination of the independent medical reviewer, and shall
6 promptly issue a written decision to the parties.

7 (i) If the determination of the independent medical reviewer
8 finds that the disputed treatment or diagnostic service is consistent
9 with Section 5307.27 or the American College of Occupational
10 and Environmental Medicine's Occupational Medicine Practice
11 Guidelines, the injured employee may seek the disputed treatment
12 or diagnostic service from a physician of his or her choice from
13 within or outside the medical provider network. Treatment outside
14 the medical provider network shall be provided consistent with
15 Section 5307.27 or the American College of Occupational and
16 Environmental Medicine's Occupational Practice Guidelines. The
17 employer shall be liable for the cost of any approved medical
18 treatment in accordance with Section 5307.1 or 5307.11.

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